

EXHIBIT 1

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK

Omar Osman Mohamed,

Petitioner,

- v. -

United States of America,

Respondent.

18 cv 11193 (DLC)

S8 06cr0600-44 (DLC)

Affidavit Of Omar Osman Mohamed

1. I was born in Somalia in 1980. In 1995, my family and I emigrated to the United States as political refugees. I obtained my green card in 1996 and, ever since, have been legally residing in the United States as a lawful resident with an Alien Registration Number.

2. On June 8, 2017, I was detained by ICE. I was charged under INA Section 237(a)(2)(B)(i), i.e. convicted after admission of a controlled substance offense. I am presently at Carver County Jail, 606 E 4th Street, Chaska MN 55318, under an order of removal dated October 15, 2019. On November 14, 2019, I filed a Notice of Appeal of that order.

3. Before my detention, I lived in Minneapolis, MN. My parents, Mr. Osman Abdirhiman, age 67, and Ms. Abay Ayt, age 71, naturalized American citizens, and my five brothers and sisters, and my 13-year old daughter from a prior marriage, all of whom are American citizens, also live there. My present wife, Khadija and my two year old son, Sabir, both American citizens, live in Seattle. Despite my ICE detention, I remain close to my family.

4. I am a musician and singer. In April 2006, I drove to Chicago, Illinois, to perform at a wedding. After the wedding, the sister of the groom asked me if I could drive another wedding guest back to Minneapolis. His name was Abdiazis Salah Mohamed. I agreed to do this favor for the family. I had not met Abdiazis before the wedding. He did not pay me to drive him.

5. On the way home, on April 10, 2006, we were stopped in Saint Croix County, Wisconsin, by State Police for a traffic infraction and they found a bag with khat plants belonging to Abdiazis in the back seat. We were both arrested by the Wisconsin authorities on charges of possession of a controlled substance. The Wisconsin charges were later dismissed by prosecutor's motion.

6. On July 26, 2006, federal charges were filed against me regarding the same incident, specifically, conspiring to distribute khat containing cathinone, a controlled substance, in violation of federal law.

7. Mr. Winston Lee is an attorney in New York City who was a public defender appointed to represent me. To the best of my recollection, I met Mr. Lee for the first time in person outside the courtroom in the S.D. of NY. (I never visited him at his office.) There were many people in the hallway and I answered when he called my name. I do not recall exactly how long we spoke but it was probably about an hour.

8. I had never before been in a federal court and Mr. Lee told me that the easiest way out of this legal nightmare was simply to plead guilty to a misdemeanor. While I do not recall his exact words, he never told me I would be deported or anything like that. He did not tell me that I might be able to plead guilty to a non-deportable offense.

9. If I had been told that pleading to a misdemeanor offense involving a controlled substance subjected me to mandatory deportation, I would never have pled guilty. I would have asked Mr. Lee if there was some other non-deportable violation that I could plead guilty to, and, if not, I would have gone to trial.

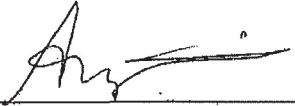
10. I am advised by my present counsel that I have a number of viable defenses that I could have litigated to avoid conviction and deportation. I was never told about any of them by Mr. Lee. I did not believe I had done anything wrong but was just following my attorney's advice as the best way to end the mess I found myself in.

11. At the hearing on November 7, 2007, I was asked questions by the Magistrate Judge regarding the offense I was charged with and the plea I was making. Mr. Lee told me to answer "yes" to the questions so that I complied with what the government wanted in order to accept my plea.

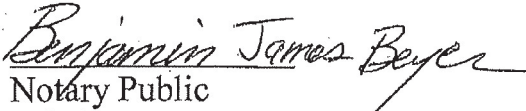
12. My entire family lives here in the United States. I know no one in Somalia. My wife, my children, my livelihood—everything I care about is here. I

would never have agreed to the plea that was negotiated by Mr. Lee had I known the almost certain deportation consequences.

13. In 2017, shortly after I was detained by ICE, I called Mr. Lee. I wanted to talk to him about this. Mr. Lee said he could not help me and told me not to call him again. I then asked my wife Khadija to contact him. She did so and asked him if he could help us and for a copy of my file. He told her the case was closed, that he could not represent me and never sent her the file.


Omar Osman Mohamed

Sworn to before me this
3rd day of December, 2019.


Notary Public

